

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

On June 14, 2007, I heard the government's motion to detain defendant Alex Bandari. The defendant was present and represented by Frank Leidman. Peter Axelrod appeared for the United States. Defendant's Probation Officer, Joe Martinez, was also present.

Because the defendant is charged with a supervised release violation, he has the burden of establishing by clear and convincing evidence that he is not a flight risk or danger to the community. Fed. R. Crim. P. 32.1(a)(6); 18 U.S.C. § 3143.

After hearing the proffers and arguments of counsel and

1 the recommendation of the Probation Officer, I find that
2 defendant failed to prove by clear and convincing evidence
3 that he is not a danger to the community and that there are
4 conditions of release which would reasonably assure the safety
5 of the community, and I **ORDER** him detained. In so finding, I
6 considered the following factors:

7 1. In 2002, defendant pled guilty to two counts of
8 possession of child pornography, and was sentenced to twenty-
9 seven months of custody to be followed by three years of
10 supervised release. Defendant began his supervised release on
11 November 21, 2004.

12 2. As conditions of supervised release, defendant was
13 ordered not to commit any crimes and not to have any contact
14 with minors.

15 3. On June 6, 2007, defendant was arrested and charged
16 with annoying or molesting a child, in violation of California
17 Penal Code Section 647.6(a)(1). Judge Jenkins then issued a
18 "no bail" arrest warrant at the request of his probation
19 officer.

20 4. Defendant's proposal that he submit himself to
21 further therapy or to a course of medical treatment does not
22 establish by clear and convincing evidence that he would not
23 pose a danger to the community. I am not persuaded that such
24 therapy would work, at least immediately, and am troubled that
25 defendant knowingly lapsed in his medical treatment prior to
26 the current incident. Moreover, an appropriate form of
27 treatment for defendant requires long range planning and is
28 more appropriately raised before Judge Jenkins should he

1 consider modifying the conditions of release

2 5. I also conclude there is no less restrictive housing
3 alternative that would reasonably assure the safety of the
4 community. Because of his offense, I do not believe a half
5 way house would accept him. I am satisfied that defendant's
6 movements would have to be substantially restricted to
7 reasonably assure the safety of the community. The proposals
8 that defendant be released with GPS monitoring or into house-
9 arrest, were not considered adequate by his probation offer,
10 and I concur. Other than jail, I know of no way, and none was
11 suggested, to put defendant in a custodial setting that would
12 reasonably assure that he would not be a danger to the
13 community.

14 Therefore, **IT IS ORDERED** that:

15 (1) The defendant be, and hereby is, committed to
16 the custody of the Attorney General for a confinement in a
17 corrections facility separate, to the extent practicable, from
18 persons awaiting or serving sentences or being held in custody
19 pending appeal;

20 (2) The defendant be afforded reasonable opportunity
21 for private consultation with his counsel; and

22 (3) On order of a court of the United States or on
23 request of an attorney for the government, the person in
24 charge of the corrections facility in which the defendant is
25 confined shall deliver the defendant to an authorized Deputy

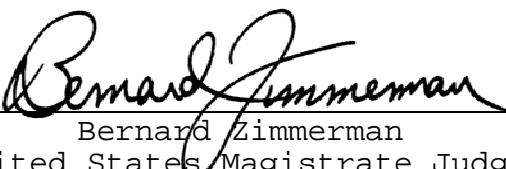
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1 United States Marshal for the purpose of any appearance in
2 connection with a court proceeding.

3 Dated: June 14, 2007

4 
5 Bernard Zimmerman
6 United States Magistrate Judge

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